

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
CIVIL ACTION-LAW

Clarence Bloodworth	:	
407 Broad Street	:	
Pen Argyl, PA 18072	:	
(On behalf of himself and those Similarly Situated)	:	
Plaintiff	:	
v.	:	
	:	10-cv-4633
TBF Financial, Inc.	:	
520 Lake Cook Road, Suite 5	:	
Deerfield, IL 60015	:	
and	:	
John Does 1-10	:	
and	:	Jury Trial Demanded
XYZ Corporations	:	
Defendant(s)	:	

**PLAINTIFF'S BRIEF IN SUPPORT OF PLAINTIFF'S
ANSWER TO DEFENDANT'S MOTION TO DISMISS**

On September 13, 2010, plaintiff Clarence Bloodworth filed a complaint alleging that Defendant violated the Fair Debt Collection Practices Act (FDCPA), 15 USC 1692 et. seq. The basis of Plaintiff's claim is that Defendant a particular letter which did not include mandatory disclosures required by the FDCPA. Plaintiff also alleges that similar letters may have been sent to other Pennsylvania consumers, and that class certification may be appropriate.

Plaintiff's complaint states that Plaintiff is a consumer and that the alleged debt was a consumer Debt. Defendant was a third party collector attempting to collect on the alleged debt. Therefore, if the facts were taken as true, then Plaintiff has properly stated a claim under the FDCPA.

Defendant contends that the account which is the subject to Plaintiff's complaint was for commercial debt. Plaintiff contends that it was consumer debt and not commercial Debt. The account was issued in the name of Clarence Bloodworth as well as "Dukes Sporting Goods." However, the

account was used largely for personal expenses. It is common in the industry for lenders to issue credit accounts in the joint name of an individual as well as a business, and to allow the individual to use the account for business as well as personal expenses. In such instances, the accounts may be regarded as consumer debts for purposes of the FDCPA. See *PERK v. WORDEN, UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, NEWPORT NEWS DIVISION*, 475 F. Supp. 2d 565; 2007; *SHAFE v. TEK-COLLECT, Case No.: 07-00327* 2007; *SMITH v. EVB Civil Action No. 3:09-CV-554 UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA, RICHMOND DIVISION* 2010.

CONCLUSION

Plaintiff requests a hearing on Defendant's Motion to Dismiss and oral arguments. Assuming that Plaintiff's complaint does lack specificity, then Plaintiff requests leave to amend the complaint, and not dismissal of the complaint.

/s/ Vicki Piontek

11-8-2010

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Date

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Certificate of Service

On the 8th day of November, 2010, I served a true and correct copy of the attached Brief in Support of Plaintiff's Answer to Defendant's Motion to Dismiss by First Class U.S. Mail, postage pre-paid to the following parties at the following addresses.

Wilbur L. Kipnes (Pa. I.D. No. 19501)
Paul I. Safier (Pa.I.D. No. 209154)
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/s/ Vicki Piontek 11-8-2010

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